D.B. INCOME TAX APPEAL NO.40/2006
CIT, Udaipur Vs. M/s Trilok Chand & Party.

Date : 13.9.2006

PRESENT

HON'BLE MR. JUSTICE RAJESH BALIA
HONBLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. K.K. Bissa for the appellant.
None present for the respondents.

Heard learned counsel for the appellant. None has appeared for the respondents in spite of service of notice.

The facts of the case are that the assessee was holding the licence for carrying on the business of country liquor, IMFL and Beer. He had submitted his return of income for assessment year 1997-98 at Rs.8,79,480/-. The Assessing Officer has rejected the books of accounts inter alia on the ground that retail sales are not vouchable and, therefore, he resorted to best judgment assessment and made additions of Rs.13,32,140/- by applying the net profit rate in country liquor has business as well as in respect of retail sale of

IMFL and Bear.

The CIT (Appeals) partly allowed the appeal by sustaining the addition at a lump sum of Rs.3 lakhs.

Being aggrieved with the aforesaid order of the CIT (Appeals) the Revenue preferred the appeal before the Income Tax Appellate Tribunal. The Tribunal found by considering the fact that the assessee had to pay and about which there is no dispute an amount of Rs.75,20,967/- towards short fall in the quantity of liquor / IMFL during the relevant period and considering that it is a part of business loss or business expenditure and considering the average GP rate shown by the assessee, the Tribunal was of the opinion that the additions of Rs.3 lacs as sustained by the CIT (Appeals) were justifiable and the Revenue's appeal for restoring the order of the Assessing Officer making large additions were dismissed.

We are of the opinion that the aforesaid findings are finding of fact and not raise any question of law. In D.B. IT Appeal No.72/2005 CIT Vs. M/s Om Prakash Mula Ram and Party and D.B.I.T. Appeal

No.65/2005 both decided on 13.12.2005 it has been held by this Court in like circumstances that no substantial question of law arises.

Accordingly, this appeal fails and is hereby dismissed.

[GOPAL KRISHAN VYAS], J. [RAJESH BALIA], J.

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